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# Coverup appeals face long odds

By Glen Elsasser

Chicago Tribune Press Service

WASHINGTON — Richard Nixon's former top aides face long odds in their gamble that an appeals court will overturn their convictions in the Watergate coverup trial.

John Mitchell, John Ehrlich-

man, H. R. Haldeman, and Robert Mardian are all expected to argue for new, separate trials, claiming there were errors in the first trial; that they were tried in a biased Washington atmosphere or that the failure of Nixon to testify deprived them of a

## News analysis

complete defense.

Ehrlichman contended Thursday that the list of trial errors was "as long as your arm" and Haldeman's and Mitchell's lawyers said their "bag of errors" was at the breaking point.

ALL THIS, however, may be whistling past the judicial graveyard, altho it is impossible to predict what an appeals court might deem reversible error, particularly in a case as controversial, complicated, and celebrated as this.

The defense saw Judge John J. Sirica as a sort of frontier character, the "hanging judge," who denied them the right to demand a crucial witness—Nixon.

Nixon's lawyer said his health would not stand questioning, and a panel of doctors Sirica appointed confirmed this.

Speaking frankly, as is his custom, Sirica remarked at one point in the trial that Nixon's credibility on Watergate was questionable, thus questioning the former President's value as a witness, anyway.

DESPITE Sirica's ruling that Nixon was not essential, Haldeman and Ehrlichman persisted in saying that Nixon was the one person who could tell how they urged him repeatedly, in unrecorded conversations, to make a clean breast of Watergate.

Sirica's refusal to remove himself from the case is another quarrel that an appellate court may have to settle.

Long before the trial began, the defense tried to get Sirica removed from the case on the ground that he had been an object of the coverup—and, consequently was hardly impartial.

THE CELEBRATED tape recordings are expected to figure in the appeals. They were, in effect, the government's key witness. But defense lawyers—particularly for Haldeman and Ehrlichman—argued that Sirica permitted the prosecution to edit them to fit their charges and to provide jurors with inaccurate transcripts.

Haldeman's counsel, at one point, asked that the tapes be played in their entirety—with all non-Watergate matters thrown in. Sirica refused.

The judge also rankled defense lawyers by saying he was not "trying this case according to the strict rules of evidence" but to get the "truth of what happened."

STATEMENTS challenged as hearsay were allowed to go into the testimony. For instance, John W. Dean was allowed to testify about remarks made to him about others by former Acting FBI Director L. Patrick Gray and Deputy CIA Director Vernon Walters.

The fact the five defendants were tried together was raised as an argument for appeal.

Repeatedly defense lawyers asked separate trials for their clients. They argued that all were tarred collectively when one of the group could be heard baring his soul and guilt on a White House tape.

For instance, Mitchell was seldom on tape, but there were many incriminating statements made about him on tape by Nixon, Haldeman, and Ehrlichman.

IN ADDITION, there is the question of the politically charged atmosphere in Washington, which is mainly black, mainly Democratic, and heavily

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